

Message Text

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ACTION NEA-11

INFO OCT-01 ISO-00 H-01 HA-05 CIAE-00 INR-10 NSAE-00
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P R 181102Z MAY 78
FM AMEMBASSY ISLAMABAD
TO SECSTATE WASHDC PRIORITY 7254
INFO AMCONSUL LAHORE
AMCONSUL KARACHI

C O N F I D E N T I A L SECTION 1 OF 2 ISLAMABAD 4968

FOR NEA/PAB

E.O. 11652: GDS
TAGS: PINT, SHUM, PK
SUBJECT: CONGRESSMAN'S REQUEST FOR INFORMATION ON BHUTTO TRIAL

REF: (A) STATE 117844 (B) ISLAMABAD 4831
(C) ISLAMABAD 0493

1. WE ARE POUCHING AN UNCLASSIFIED CHRONOLOGY OF THE BHUTTO TRIAL (AND EARLIER EVENTS) FOR YOUR USE IN RESPONDING TO CONGRESSMAN WILSON'S REQUEST (REF A). COMPENDIUM OF TRIAL DOCUMENTS AS PUBLISHED WERE POUCHED MAY 15 (REF B).

2. CONGRESSMAN WILSON'S REQUEST RAISE INTERESTING AND QUITE DIFFICULT QUESTIONS. AS DEPARTMENT WILL HAVE NOTED FROM OUR REPORTING, WE HAVE SCRUPULOUSLY AVOIDED EXPRESSING AN OPINION ON THE "THE EQUITY OF THE TRIAL PROCEDURES." WE WOULD URGE THE DEPARTMENT TO DO THE SAME IN ITS REPLY TO THE CONGRESSMAN.

3. THE BHUTTO TRIAL WENT ON FOR A LONG TIME AND EXCITED STRONG PASSIONS ON BOTH SIDES; THERE IS VIRTUALLY NO KNOWLEDGE-ABLE OBSERVER IN THIS COUNTRY WHOM ONE COULD ALSO TERM DISPASSIONATE ABOUT THE TRIAL OR ABOUT THE FATE OF THE
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FORMER PRIME MINISTER.

4. IT WAS ALSO AN UNUSUAL TRIAL--UNIQUE IN MANY RESPECTS. THE MARTIAL LAW ADMINISTRATION (MLA), IN ITS SEARCH FOR BOTH JUSTICE AND THE APPEARANCE OF JUSTICE, RESISTED ITS INITIAL IMPULSE TO TRY THE FORMER PRIME MINISTER IN A MILITARY COURT, TURNING HIM OVER INSTEAD TO PAKISTAN'S

NORMAL CIVIL COURT PROCEDURES. AFTER HIS INITIAL LEGAL CHALLENGE OF THE TRIAL WAS REJECTED, BHUTTO SETTLED IN TO AN APPARENT ACCEPTANCE OF THE PROCEEDINGS, ONLY TO REJECT THE COURT'S JURISDICTION AND ITS PROCEDURES WHEN IT CAME TIME FOR HIS DEFENSE TO BE PRESENTED. HE PREVENTED HIS OWN LAWYERS FROM CARRYING ON THEIR AGREED DEFENSE AND SUBSTITUTED A LONG POLITICAL POLEMIC DEFENDING HIS STEWARDSHIP OF PAKISTAN'S FORTUNES AND ATTACKING THOSE WHO HAD DEPOSED AND OPPOSED HIM.

5. ONE OF THE DILEMMAS HIS LEGAL TEAM FACES IN COMING TO GRIPS WITH A SUPREME COURT APPEAL IS HOW TO GET HIS DEFENSE INTO THE RECORD: ONE OF HIS LAWYERS TOLD POLICONS IN LAHORE LAST WEEK THAT THEY EXPECT THE APPEAL TO GO ON ABOUT TWO MONTHS BUT THAT ONE VARIABLE ON TIMING IS HOW MUCH "NEW" EVIDENCE THE SUPREME COURT WILL PERMIT THEM TO INTRODUCE (I.E. EVIDENCE WHICH IN PART, AT LEAST, THEY WERE UNABLE TO PRESENT IN LAHORE BECAUSE OF BHUTTO'S DECISION NOT TO DEFEND HIMSELF IN THE HIGH COURT). BECAUSE OF THE STAKES, THEY ASSUME THE COURT WILL BE LENIENT, BUT THEY SIMPLY DO NOT KNOW. (ANOTHER VARIABLE IN THE TIME THE APPEAL MIGHT TAKE IS HOW LONG A DAY THE COURT WILL AGREE TO SIT IN ORDER TO DISPOSE OF THE CASE BEFORE THE COURT'S SUMMER RECESS).

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6. FINALLY, WHILE PAKISTAN'S JUDICIAL SYSTEM, ESPECIALLY AT ITS UPPER REACHES, IS LIKE OUR OWN IN ITS RELIANCE ON ANGLO-SAXON CONCEPTS OF JURISPRUDENCE, THERE ARE IMPORTANT DIFFERENCES IN STYLE, IN PROCEDURES, AND IN SUBSTANCE-- MANY OF THEM SUBTLE. WE SIMPLY ARE NOT QUALIFIED TO JUDGE THE "EQUITY" OF SUCH A TRIAL.

7. THESE MANY REASONS REINFORCE OUR POLITICAL JUDGEMENT THAT THE USG SHOULD NOT OFFER AN OPINION ON PAKISTAN'S INTERNAL JUDICIAL PROCEDURES. WE HAVE AVOIDED DOING SO IN OUR APPEAL TO THE GOP ON CLEMENCY FOR BHUTTO, ANDNBE RECOMMEND NO CHANGE IN THAT POSITION.

8. WE HAE REPORTED WHATEVER WE KNOW ABOUT THE PHYSICAL CONDITIONS OF BHUTTO'S INCARCERTION IN ISLAMABAD 3212 AND ISLAMABD A-13. THIS IS A DIFFICULT TOPIC ON WHICH TO GET RELIABLE INFORMATION BECAUSE THIS TOO IS SUBJECT TO INTENSE POLITICAL BIAS, INCLUDING A RENEWAL OF SUGGESTIONS BY BHUTTO'S COUNSEL THAT THE FORMER PRIME MINISTER'S HEALTH HAS RECENTLY DETERIORATED, ETC. THESE CHARGES HAVE NOT BEEN SUBSTANTIATED IN THE PAST, AND WHILE WE DOUBT THAT BHUTTO IS BEING ACCORDED THE COMFORTS IN THIS

PUNJABI SUMMER THAT HE HAS KNOWN IN PREVIOUS YEARS, E
DOUBT THE SENSATIONAL ALLEGATIONS OF HIS SUPPORTER AND
COUNSEL, YAYHA BAKHTIAR.

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C O N F I D E N T I A L SECTION 2 OF 2 ISLAMABAD 4968

FOR NEA/PAB

9. WITH REGARD TO THE CONGRESSMAN'S THIRD QUESTION--
ALSO A FACTOR IN THE QUESTION OF EQUITY--WE DO NOT
BELIEVE THAT BHUTTO TRIAL RAISES SIGNIFICANT HUMAN RIGHTS
ISSUES. THIS IS ALSO THE POSITION TAKEN IN JANUARY 1978,
DURING THE TRIAL, BY AMNESTY INTERNATIONAL, AS WE UNDER-
STAND IT (REF C). ALLEGATIONS THAT BHUTTO IS A POLITICAL
PRISONER AND IS BEING PERSECUTED (NOT PROSECUTED) BY THE
MARTIAL LAW ADMINISTRATION COME ALMOST EXCLUSIVELY FROM
HIS PARTISAN SUPPORTERS, OF WHICH--AS THE SINGLE MOST
IMPORTANT POLITICAL FIGURE IN THE COUNTRY--HE HAS MANY.
THIS IS AGAIN AN ISSUE ON WHICH THERE IS ALMOST NO
MIDDLE OR DISPASSIONATE GROUND.

10. THAT FEELINGS AGAINST BHUTTO RUN STRONG AMONG THE
GENERALS NOW IN CHARGE OF THIS COUNTRY'S AFFAIRS IS A
MATTER OF RECORD; THAT THERE ARE MANY IN PAKISTAN WHO
HOLD HIM ACCOUNTABLE FOR CRIMES FAR WORSE THAN THE SINGLE
MISTAKEN MURDER FOR WHICH HE HAS BEEN CONVICTED IS ALSO
A MATTER OF FACT. EQUALLY TRUE, HOWEVER, IS THE
FACT THAT THE CHARGE AGAINST THE FORMER PRIME MINISTER
WAS FIRST SURFACED LEGALLY IN 1974, ONLY TO BE DROPPED
UNDER CIRCUMSTANCES SUGGESTING THAT BHUTTO'S GOVERNMENT
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HAD INTERVENED TO QUASH THE CASE.

11. NEW SUBJECT: PRESS REPORTS TODAY THAT BHUTTO WAS
SHIFTED FROM LAHORE TO RAWALPINDI ON 17 MAY BY HELICOPTER
AND PRISON VAN IN PREPARATION FOR THE OPENING OF THE
SUPREME COURT APPEAL ON 20 MAY.
HUMMEL

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